



THE FEDERAL RESERVE BANK OF RICHMOND

RICHMOND • BALTIMORE • CHARLOTTE

Post Office Box 27622 · Richmond, VA 23261

Office 804 · 697 · 8000 · www.richmondfed.org

December 9, 2024

Richard Kim, Esq.
Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, NY 10019
Sent via EZFile

Dear Mr. Kim:

The following additional information request relates to (1) the application filed by Capital One Financial Corporation (“Capital One”), the parent of Capital One, National Association, both of McLean, Virginia, to acquire 100 percent of Discover Financial Services (“Discover”), Riverwoods, Illinois, and thereby indirectly acquire Discover Bank, Greenwood, Delaware, pursuant to section 3 of the Bank Holding Company Act of 1956¹ (“BHC Act”), and (2) the notice filed by Capital One to indirectly acquire DFS Services LLC, Riverwoods, Illinois; Discover Financial Services (Canada), Inc., Vancouver, British Columbia, Canada; PULSE Network LLC, Houston, Texas; and Diners Club International Ltd., Riverwoods, Illinois, pursuant to sections 4(c)(8) and 4(j) of the BHC Act.² Please also respond to the question in the Confidential Annex. Supporting documentation should be provided, as appropriate.

To the extent the information requested below is not yet available, provide a date by which the requested information is expected to be made available to the Board of Governors of the Federal Reserve System (“Board”).

1. Describe the status of the savings account products litigation cases, as well as the status of Capital One’s response to the “Notice of Opportunity to Respond and Advise” letter issued by the Consumer Financial Protection Bureau relating to the savings account products at issue in the litigation, which were discussed in Capital One’s 10-Q filed with the Securities and Exchange Commission on October 31, 2024.
 - a. Confirm the size of Capital One’s reserves for funding these matters.
 - b. Describe in detail Capital One’s plans for funding beyond the amount of Capital One’s reserves.

¹ 12 U.S.C. § 1842.

² 12.U.S.C. § 1843(c)(8) and (j).

2. Provide a status update on the case *Tyler Baker et al. v. Capital One Financial and Discover Financial Services*, Case No. 1:24-cv-01265 (E.D. Va. 2024).
3. Item 1 of Capital One’s Additional Information Response dated November 15, 2024 (“AI Response”) states that “DHL Inc. continues to have an obligation to support loan repurchase requests, respond to quality assurance audits, and create reports of repurchase activity. However, DHL Inc. has not repurchased any loans since 2015 and has not indemnified any loans since 2014. DHL Inc. would take these actions only to support [Discover] or its subsidiaries; DHL Inc. does not itself have any employees and does not provide services or engage directly with external third parties.”
 - a. Explain whether DHL Inc. is/would be acting as principal when fulfilling its obligation to respond to an external third party that requests loan repurchase and indemnification, and/or that requests quality assurance audits.
 - i. Clarify how DHL Inc. would “take these actions only to support [Discover] or its subsidiaries.” Describe in detail any contractual arrangements whereby DHL Inc. engages in the above activities on behalf of Discover or its other subsidiaries. In your response, clarify the entity(ies) responsible for paying loan repurchases and indemnification.
 - b. Clarify whether DHL Inc. engages with external third parties, directly or indirectly, when it receives loan repurchase requests, provides rebuttals to an investor, or repurchases the loans or indemnifies the loans, as described in Public Exhibit C-11 of the Additional Information Response dated June 14, 2024. In your response, provide a description of the entities that would request quality assurance audits or loan repurchase requests from DHL Inc. Indicate which employees respond to such requests or take such actions.

Provide your response via EZ-File #111944 within eight business days. Any information for which confidential treatment is desired should be so labeled and separately bound in accordance with section 261.17 of the Board’s Rules Regarding Availability of Information. The public portion of any response should be so designated. The Board will make the public portion of this request and the public portion of any response available on the Board’s website, so that it is readily accessible to the commenters and to other interested parties.³ Please also send a copy of your response to the Office of the Comptroller of the Currency Senior Licensing Analyst Patricia Roberts at patricia.roberts@occ.treas.gov, the Federal Deposit Insurance Corporation Senior Case Manager Jeffrey Ralston at jralston@fdic.gov, and the Delaware Office of the State Bank Commissioner Senior Deputy Commissioner Lisa Collison at lisa.collison@delaware.gov.

³ See <https://www.federalreserve.gov/foia/capital-one-discover-application-materials.htm>.

NONCONFIDENTIAL // EXTERNAL

If you have any questions, please contact Amory Goldberg or Isabel Echarte in the Board's Legal Division, via email at amory.r.goldberg@frb.gov or isabel.m.echarte@frb.gov.

Sincerely,

E-SIGNED by Brent Hassell
On 2024-12-09 12:17:27 GMT

Brent Hassell
Assistant Vice President

cc: Board of Governors of the Federal Reserve System
Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
Delaware Office of the State Bank Commissioner